

## Tennessee Valley Authority

## § 1307.4

(ii) The entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) Any other entity which is established by two or more of the entities described in paragraph (k)(1), (2), or (3) of this section.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

### § 1307.2 Purpose.

The purpose of this part is to effectuate section 504 to the end that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving financial assistance from TVA.

### § 1307.3 Application.

This part applies to any program or activity for which financial assistance is provided by TVA, except that this part does not apply to any (a) TVA procurement contracts, contracts with other Federal agencies, or contracts of insurance or guaranty, (b) money paid, property transferred, or other assistance extended to a recipient before the effective date of this part, or (c) assistance to any individual or entity which is the ultimate beneficiary. Nothing in paragraph (b) of this section exempts any recipient of financial assistance under a contract in effect on the effective date of this part from compliance with this part.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

### § 1307.4 Discrimination prohibited.

(a) *General.* No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity to which this part applies.

(b) *Specific discriminatory actions.* (1) A recipient to which this part applies shall not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or services available under the program or activity;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others under the program or activity;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others under the program or activity;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others, unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others under the program or activity;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or entity that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program or activity;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards with respect to the program or activity; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment under the program of any right, privilege, advantage, or opportunity enjoyed by others under the program or activity.

(2) A recipient shall not deny a qualified handicapped person the opportunity to participate under the program or activity in activities that are not separate or different, despite the existence of permissibly separate or different aid, benefits, or services.

(3) A recipient shall not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped

persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the program or activity with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control.

(4) A recipient shall not, in determining the site or location of a facility under the program or activity, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under the program or activity, or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from aid, benefits, or services limited by Federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from aid, benefits, or services limited by Federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs or activities in the most integrated setting appropriate to the needs of qualified handicapped persons. A recipient who wishes to establish a policy of separate aid, benefits, or services or different treatment for handicapped and nonhandicapped persons shall request and receive written approval from TVA before instituting such policy or undertaking any such separate treatment.

(e) Recipients shall take appropriate steps to ensure that communications to their applicants, employees, and beneficiaries are available to such persons with impaired vision and hearing.

[45 FR 22895, Apr. 4, 1980, as amended at 68 FR 51356, Aug. 26, 2003]

**§ 1307.5 Employment discrimination.**

(a) *General.* No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity subject to this part.

(b) *Specific discriminatory actions.* With respect to a program or activity subject to this part, a recipient shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) A recipient shall make all decisions concerning employment under any program or activity subject to this part in a manner which ensures that discrimination on the basis of handicap does not occur, including the following activities:

(1) Recruitment, advertising, and processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including those that are social or recreational; and

(9) Any other term, condition, or privilege of employment.

(d) A recipient shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this part, including relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeships.

(e) *Reasonable accommodation.* (1) A recipient shall make reasonable accommodation to the known physical or